

§ 502.94 Prehearing conference.

(a)(1) Prior to any hearing, the Commission or presiding officer may direct all interested parties, by written notice, to attend one or more prehearing conferences for the purpose of considering any settlement under § 502.91, formulating the issues in the proceeding and determining other matters to aid in its disposition. In addition to any offers of settlement or proposals of adjustment, there may be considered the following:

- (i) Simplification of the issues;
 - (ii) The necessity or desirability of amendments to the pleadings;
 - (iii) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
 - (iv) Limitation on the number of witnesses;
 - (v) The procedure at the hearing;
 - (vi) The distribution to the parties prior to the hearing of written testimony and exhibits;
 - (vii) Consolidation of the examination of witnesses by counsel;
 - (viii) Such other matters as may aid in the disposition of the proceeding.
- (2) The presiding officer may require, prior to the hearing, exchange of exhibits and any other material which may expedite the hearing. He or she shall assume the responsibility of accomplishing the purposes of the notice of prehearing conference so far as this may be possible without prejudice to the rights of any party.

(3) The presiding officer shall rule upon all matters presented for decision, orally upon the record when feasible, or by subsequent ruling in writing. If a party determines that a ruling made orally does not cover fully the issue presented, or is unclear, such party may petition for a further ruling thereon within ten (10) days after receipt of the transcript.

(b) In any proceeding under the rules in this part, the presiding officer may call the parties together for an informal conference prior to the taking of testimony, or may recess the hearing for such a conference, with a view to carrying out the purposes of this section. [Rule 94.]

(c) At any prehearing conference, consideration shall be given to whether the use of alternative means of dispute

resolution would be appropriate or useful for the disposition of the proceeding.

[49 FR 44369, Nov. 6, 1984, as amended at 58 FR 38649, July 19, 1993]

§ 502.95 Prehearing statements.

(a) Unless waiver is granted by the presiding officer, it shall be the duty of all parties to a proceeding to prepare a statement or statements at a time and in the manner to be established by the presiding officer provided that there has been reasonable opportunity for discovery. To the extent possible, joint statements should be prepared.

(b) A prehearing statement shall state the name of the party or parties on whose behalf it is presented and briefly set forth the following matters, unless otherwise ordered by the presiding officer:

- (1) Issues involved in the proceeding.
- (2) Facts stipulated pursuant to the procedures together with a statement that the party or parties have communicated or conferred in a good faith effort to reach stipulation to the fullest extent possible.
- (3) Facts in dispute.
- (4) Witnesses and exhibits by which disputed facts will be litigated.
- (5) A brief statement of applicable law.
- (6) The conclusion to be drawn.
- (7) Suggested time and location of hearing and estimated time required for presentation of the party's or parties' case.

(8) Any appropriate comments, suggestions or information which might assist the parties in preparing for the hearing or otherwise aid in the disposition of the proceeding.

(c) The presiding officer may, for good cause shown, permit a party to introduce facts or argue points of law outside the scope of the facts and law outlined in the prehearing statement. Failure to file a prehearing statement, unless waiver has been granted by the presiding officer, may result in dismissal of a party from the proceeding, dismissal of a complaint, judgment against respondents, or imposition of such other sanctions as may be appropriate under the circumstances.